

1 T.S. HARTZELL
2 80 West Franklin Street
3 Tucson, Arizona 85701
4 (520) 792-8181
5 tshart@dakotacom.net
6 Arizona State Bar # 013862
7 Pima County Computer # 64555

8 Attorney for claimant

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10 IN AND FOR THE COUNTY OF COCHISE

11 In the matter of:

12 NO. CV201500001

13 REAL PROPERTY AND RESIDENCE
14 LOCATED AT 5415 SOUTH CALLE
15 ALAMO, SIERRA VISTA, ARIZONA,
16 85650, INCLUDING ALL BUILDINGS,
17 STRUCTURES, FIXTURES AND
18 APPURTENANCES THERETO,
19 COCHISE COUNTY PARCEL:
20 107-15-007D; ETC.,

21 CLAIM OF ROGER EVERETT
22 AGAINST FORFEITURE

23 Seized in Drug Enforcement Administration
24 Case No. KL-14-0044

25 Claimant Roger Everett, through counsel and pursuant to A.R.S. §§ 13-4304, 13-4310 and
26 13-4311, hereby claims the following property, or some portion thereof and demands its
27 immediate release:

28 Claimant, pursuant to A.R.S. §§ 13-4310(B) and 13-4311(E) and (F), provides the
following information to the Court and the attorney for the state.

1. That the name of claimant is Roger Everett.

2. That he will accept future mailings from the attorney for the state or from the Court
at the following address:

Roger Everett
c/o T.S. Hartzell
80 W. Franklin St.
Tucson, AZ 85701

3. Claimant Everett owns and claims the following interests in the following property:

A. **The real property at 5415 South Calle Alamo.** Roger Everett has a legal and
equitable interest in the land itself, an interest subservient to that of his parents, Charles Everett

1 and Marilyn Everett and shared with Chase Everett. Roger Everett also claims a 100% interest
2 in the improvements on the property at 5415 S. Calle Alamo, subject to claims by Chase Everett
3 and Breanne English.

4 **B. 1994 Ford F-150, VIN 1FTEX15N4RKB91449.** Roger Everett is the sole owner of
5 this truck.

6 **C. 2002 BMW 5-series 525i, VIN WBADT434X2GY430800.** Roger Everett shares the
7 ownership of the BMW with his mother, Marilyn Everett.

8 4. Claimant acquired his interest in:

9 **A. The real property at 5415 South Calle Alamo** in 1994, agreeing to purchase the
10 property for \$23,900 from Harold Cole. Roger Everett paid nothing down on the property and
11 one-half the closing costs. Cole and Everett agreed that Roger Everett would pay \$250.00 per
12 month for the property. The beneficiary of the note changed from Roger Cole to his son, Terry
13 Cole, at some point.

14 Roger Everett's payments to Cole were inconsistent and the principal balance remained
15 little changed over time. In 2014, Charles Everett paid the outstanding balance of \$23,200.00
16 and obtained a promissary note, ostensibly secured by the property, from Roger Everett. At
17 about the same time, Harold Cole's successors in interest deeded the property to Roger C.
18 Everett and Chase N. Everett.

19 The improvements on the land were constructed by Roger Everett with the assistance of
20 others, including Chase Everett and Breanne English, using primarily salvaged and surplus
21 materials. The main structure, a modified Quonset hut, is still being built.

22 **B. The 1994 Ford F-150, VIN 1FTEX15N4RKB91449,** in 2011 from R.C. Masters in
23 Sierra Vista, Arizona for \$2,500.00. Roger Everett gave the equivalent of \$1,500.00 in labor to
24 Mr. Masters and the remaining \$1,000.00 was paid in bits and dabs over time with earnings from
25 landscaping jobs.

26 **C. The 2002 BMW 5-series 525i, VIN WBADT434X2GY430800,** in or around 2008
27 from Lawley Motors, Sierra Vista, Arizona for \$21,000.00. No money was paid down; Marilyn
28

1 Everett and Roger Everett executed a purchase money security agreement for monthly payments
2 for the car. Marilyn Everett made most of the payments and was the primary driver of the car.
3 After age-related ailments took their toll on Marilyn Everett, she gave the automobile to her son,
4 Roger Everett, about two months ago. Roger Everett considers the car his mother's property.

5 5. Claimant Roger Everett opposes forfeiture of his interest in the above-claimed
6 property for the reason that, first, he is unaware of any conduct arguably giving rise to forfeiture.
7 Everett's interest in the claimed properties was purchased with the fruit of his labors as a
8 landscaper and handyman and were not the proceeds of any sort of illegal activity. Roger
9 Everett also denies any of the claimed properties were used to further or facilitate any sort of
10 narcotic trafficking or racketeering.

11 6. Roger Everett also opposes forfeiture for the reason his property is exempt from
12 forfeiture under A.R.S. § 13-4304(4). While Mr. Everett is unaware of any conduct that took
13 place which could give rise to forfeiture, if it did, it occurred after he acquired his interest. He
14 did not empower anyone whose act or omission might have given rise to forfeiture with legal or
15 equitable power to convey his interest. More importantly, he did not know and could not
16 reasonably have known of any act or omission which could have given rise to forfeiture.

17 7. Claimant Roger Everett seeks the dismissal of any forfeiture lien, dismissal of the
18 forfeiture action and his costs and attorney's fees associated with contesting this matter.

19 Dated January 28, 2015

20
21

T.S. Hartzell,
Attorney for Claimant

22 VERIFICATION

23 Roger C. Everett, claimant herein, being first duly sworn, upon his oath deposes and
24 states that he has read the foregoing Claim of Roger Everett against Forfeiture and the contents,
25 assertions and allegations contained therein are true and correct.

26

Roger C. Everett

1 SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, this day of
2 January, 2015.

3 My commission expires:

Notary Public

4
5
6 Copy hereof mailed January 28, 2015 to:

7 Thomas Rankin
8 Arizona Attorney General's Office
9 400 West Congress, suite S-315
10 Tucson, AZ 85701

11 Drug Enforcement Administration
12 Attn: Christopher Cayce
13 1728 Paseo San Luis
14 Sierra Vista, AZ 85635
15
16
17
18
19
20
21
22
23
24
25
26
27
28